

AFFIDAVIT

I, Colin M. Simons, being first duly sworn, hereby depose and state as follows:

INTRODUCTION

1. I submit this affidavit in support of a criminal complaint charging Antonio VERGARA with violating Title 21, United States Code, Sections 841(a)(1), 841(b)(1)(B), namely, knowing and intentional possession with intent to distribute 40 grams or more of a mixture and substance containing a detectible amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide ("fentanyl"), a Schedule II controlled substance.

2. I am a Special Agent with the Federal Bureau of Investigation ("FBI") currently assigned to the Burlington, Vermont Resident Agency of the Albany, New York Division. I have been a Special Agent for over 15 years. I am responsible for working a variety of criminal violations, to include violent crime and gangs. I have also been the affiant to numerous federal complaints and search warrants pertaining to violent crime and drug crimes. As a Special Agent, I am authorized to investigate violation of laws of the United States and to execute warrants issued under the authority of the United States.

3. The facts in this affidavit come from my training and experience, my review of documents and reports, my own participation in the investigation, and conversations with other law enforcement officers. This affidavit is intended to demonstrate that there is probable cause to believe VERGARA committed the offense alleged and does not set forth all of my knowledge about this matter.

4. On October 26, 2022, members of the FBI and Vermont Drug Task Force ("VDTF") and were electronically monitoring VERGARA's location. Investigators observed VERGARA travel southbound on Interstate 91 from Vermont into Massachusetts. FBI Special Agent Carl Ruprecht and FBI Task Force Officer Luis Rivera, who are members of the FBI's Western

Massachusetts Gang Task Force, located a white Audi Q3 bearing Vermont registration HWL871 in an area consistent with the location indicated by the electronic location monitoring of VERGARA. I know from my investigation that this particular vehicle is registered jointly to VERGARA's live-in girlfriend and a third party. VDTF has observed VERGARA operate this vehicle in the past.

5. After the white Audi was located by members of the FBI, Massachusetts State Police Trooper Theodore Tudryn observed the vehicle and identified VERGARA as the driver based on his review of a booking photograph of VERGARA and an image from a recent law enforcement interaction. He also observed that VERGARA was the sole occupant of the vehicle. Trooper Tudryn confirmed with the Massachusetts Department of Motor Vehicles that VERGARA's driver's license was suspended and attempted a traffic stop of VERGARA by pulling behind the white Audi and activating his emergency lights at approximately mile marker 30.4 on Interstate 91 northbound in the town of Hatfield, Massachusetts. When Trooper Tudryn activated his emergency blue lights, VERGARA accelerated to over 120 miles per hour. During his pursuit, Trooper Tudryn observed VERGARA drive through a construction zone, drive into the breakdown lane on multiple occasions to travel around traffic, and drive in-between cars traveling in the right and left lanes of Interstate 91. Trooper Tudryn eventually discontinued the pursuit due to the excessive speed and public safety concern.

6. Investigators continued to electronically monitor VERGARA's location as he travelled northbound on Interstate 91 into Vermont. VDTF Detective Trooper Andrew Todd observed VERGARA traveling northbound on Interstate 91 and estimated VERGARA's speed to be greater than 120 miles per hour.

7. Vermont State Police ("VSP") Sgt. Lyle Decker was stationary and equipped with spike strips at approximately mile marker 109 on Interstate 91 northbound in the area of Newbury, Vermont. Sgt. Decker observed VERGARA's white Audi approach his location traveling at a high

rate of speed. Sgt. Decker deployed the spike strips, striking the left front tire of the Audi. VERGARA continued driving at a high rate of speed for approximately two miles and eventually stopped on the center median. VERGARA exited the white Audi and was taken into custody.

8. VSP Det. Sgt. Karl Gardner approached the white Audi, looked through the passenger window, and observed that an open black plastic bag was located on the front passenger seat. Inside the open black plastic bag, Det. Sgt. Gardner immediately recognized what he believed from his training and experience was pre-packaged heroin/fentanyl, depicted in the photograph below.



9. Det. Sgt. Gardner seized the suspected heroin/fentanyl, which was later determined to consist of approximately 5,500 individual bags. The suspected heroin/fentanyl was eventually field tested by VDTF Detective Aaron Lefebvre with a Sirchie NARK II (Narcotic Analysis Reagent Kit), which returned a positive result for fentanyl.

10. VERGARA later waived his Miranda rights and spoke with me. Among other things, VERGARA stated that he uses fentanyl and doesn't sell any controlled substances. VERGARA also stated that the approximately 5,500 bags of fentanyl which were seized by investigators were for personal use.

11. According to a 2022 affidavit of Trisha Conti, Director of the Vermont Forensic Laboratory, "an estimation of the suspected heroin/fentanyl contained in a submission/case can be calculated by multiplying the number of suspected heroin/fentanyl packages in the submission by 20.5 milligrams, the average weight of powder contained in heroin and/or fentanyl packages." Accordingly, the approximately 5,500 bags of fentanyl seized from the white Audi are equivalent to approximately 112.75 grams. I know from my training and experience that this large quantity of fentanyl is inconsistent with a quantity intended for personal use, and is instead consistent with intended distribution.

Dated at Burlington, in the District of Vermont, this 27th day of October 2022.



Colin M. Simons
FBI Special Agent

Subscribed and sworn to before me on 27th October 2022.


HON. KEVIN J. DOYLE
United States Magistrate Judge